

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed amendment) NOTICE OF PUBLIC HEARING
of ARM 24.30.102, relating to occupational) ON PROPOSED AMENDMENT
safety matters in public sector employment)

TO: All Concerned Persons

1. On June 9, 2006, at 11:00 a.m., or as soon thereafter as is feasible, a public hearing will be held in room 104 (the first floor conference room), of the Walt Sullivan Building, 1327 Lockey Avenue, Helena, Montana to consider the proposed amendment of the above-stated rule.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on June 5, 2006, to advise us of the nature of the accommodation that you need. Please contact the Employment Relations Division, Attn: Ms. Sandra Mihalik, P.O. Box 1728, Helena, MT 59624-1728; telephone (406) 444-6418; fax (406) 444-9396; TDD (406) 444-0532; or e-mail smihalik@mt.gov.

3. The rule proposed to be amended provides as follows, stricken material interlined, new material underlined:

24.30.102 OCCUPATIONAL SAFETY AND HEALTH CODE FOR PUBLIC SECTOR EMPLOYMENT (1) and (2) remain the same.

(3) The Department of Labor and Industry adopts a safety code for every place of employment conducted by a public sector employer. This safety code adopts by reference the following occupational safety and health standards found in the Code of Federal Regulations, as of ~~July 1, 2005~~ July 1, 2006:

(a) Title 29, part 1910; and

(b) Title 29, part 1926.

(4) All sections adopted by reference are binding on every public sector employer even though the sections are not separately printed in a separate state pamphlet and even though they are omitted from publication in the Montana Administrative Register and the Administrative Rules of Montana. The safety standards adopted above and printed in the Code of Federal Regulations, Title 29, as of ~~July 1, 2005~~ July 1, 2006, are considered under this rule as the printed form of the safety code, and shall be used by the department and all public sector employers, employees, and other persons when referring to the provisions of the safety code. All the provisions, remedies, and penalties found in the Montana Safety Act apply to the administration of the provisions of the safety code adopted by this rule.

(5) remains the same.

AUTH: 50-71-311, MCA
IMP: 50-71-311, 50-71-312, MCA

REASON: There is reasonable necessity to amend this rule in order to incorporate by reference the current federal rules promulgated by the Occupational Health and Safety Administration (OSHA). These rules are periodically updated to ensure that public sector employers and employees have essentially the same duties and protections that apply to employers and employees in the private sector. The July 1, 2006, version of the Code of Federal Regulations is proposed for incorporation by reference because it is the most current version.

4. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Chris Catlett, Bureau Chief, Safety Bureau, Employment Relations Division, Department of Labor and Industry, P.O. Box 1728, Helena, Montana 59624-1728; by facsimile to (406) 444-9396; or by e-mail to smihalik@mt.gov, and must be received no later than 5:00 p.m., June 16, 2006.

5. An electronic copy of this Notice of Public Hearing is available through the department's site on the World Wide Web at <http://dli.mt.gov/events/calendar.asp>. The department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Department of Labor and Industry administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Department of Labor and Industry, attention: Mark Cadwallader, 1327 Lockett Avenue, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, e-mailed to mcadwallader@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

8. The department's Hearing Bureau has been designated to preside over and conduct this hearing.

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

/s/ DORE SCHWINDEN
Dore Schwinden, Deputy Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified by the Secretary of State May 8, 2006